IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

OP.No. 4373 of 2003(U)

PETITIONER:

K.UNNI, S/O. KUNJUKRISHNAN NAIR,
UPPER DIVISION CLERK, PALLIPPURAM GRAMA PANCHAYAT,
CHERAI.

BY ADV. SRI.M.A.ASIF

RESPONDENTS:
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1. THE DEPUTY DIRECTOR,
LOCAL FUND AUDIT, CIVIL STATION, KAKKANAD.

2. PALLIPPURAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, CHERAI P.O.

3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL ADMINISTRATION DEPARTMENT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR
ADV. SRI.T.A.SHAJI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 7673/2003 IN OP NO. 4373/2003 U

DISMISSED

30/05/2007. SD/- K.BALAKRISHNAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. A2/12027/95 DT. 5/5/95 BY THE ADMINISTRATIVE ASST. TO THE DEPUTY DIRECTOR (EDUCATION) ERNAKULAM.

EXT.P2. COPY OF THE ORDER DT. 15/11/2002 BY R1 TO THE SECRETARY OF THE PALLIPPURAM GRAMA PANCHAYAT.

True copy

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K.BALAKRISHNAN NAIR, J.

O.P. No.4373 of 2003-U

Dated this the 30th day of May, 2007

J U D G M E N T

The petitioner, who was working as Upper Division Clerk of Pallippuram Grama Panchayat, Ernakulam District has filed this writ petition, challenging Exts.P1 and P2. The brief facts of the case are the following:-

2. The petitioner was appointed as Peon in the Education Department, on 24-1-1984. He was promoted as Attender, on 8-9-1997, still later as Lab Attender on 18-12-1990 in the Vocational Higher Secondary School, Ernakulam. Later, it was found that the promotions granted to the petitioner were irregular and therefore, by Ext.P1 order dated 5-5-1995, he was reverted as Peon. While so, the PSC advised him for appointment as L.D. Clerk, in the Panchayat Department. While fixing the salary in the Panchayat, the last pay drawn by him in the Education Department in the post of Lab Attender was taken into account. When this irregularity was noticed, Ext.P2 order was issued by the Deputy Director of Local Fund Audit, Kakkanad. This writ petition is filed challenging Exts.P1 and P2. The petitioner submits, the orders may be technically correct, but, the

same shall not be implemented as the petitioner is a low paid employee and who received the salary pursuant to the orders passed by the superior officers.

3. Heard the learned Government Pleader for the respondents also. The petitioner has retired from service during the pendency of the original petition. He has not been paid the DCRG because of the pendency of this case. The officers who authorised the payment namely, the Deputy Director of Education has no jurisdiction to do the same. Therefore, the orders were correctly issued and the direction to recover excess payment made to the petitioner is correctly passed. I find no reason to interfere with Ext.P1 or Ext.P2. Therefore, the prayers in the writ petition cannot be granted. But, the respondents are directed to settle the pensionary claim of the petitioner, including the one for DCRG. The liability of the petitioner shall be computed and after deducting the liability, the DCRG and other amounts found due to the petitioner shall be released to him, within three months from the date of receipt of a copy of this judgment.

The Original Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS

K.BALAKRISHNAN NAIR, J.

O.P.NO.4373 OF 2003-U

J U D G M E N T

DATED 30TH MAY, 2007